

FILED  
IN CLERKS OFFICE

United States District Court  
For the District of Massachusetts  
Boston Division  
1 Courthouse Way - Suite 2300  
Boston Massachusetts 02210

2005 FEB 16 PM 2:35

U.S. DISTRICT COURT  
DISTRICT OF MASS

Joseph Marion Head junior  
Petitioner - Plaintiff

v/s

United States of America,  
United States of America  
Attorney General,  
And David L. Winn,  
Warden of F.M.C. Devens,  
Respondents - Defendants

Case Number \_\_\_\_\_

Petition For Writ of Habeas Corpus  
And Complaint - In Forma Pauperis,  
Pursuant To The Provisions Of Laws  
And Constitution Which Applies Hereto And  
Which May Be Applied Hereto As Known  
By The Courts Relating Hereto.

Petitioner - Plaintiff  
Hereinafter Herein Referred As The Plaintiff

Plaintiff herein is Joseph Marion Head junior,  
Reg. No. 17549-056, who is a Caucasian  
male born on December Second 1946 in  
Gastonia, North Carolina of the United States  
of America

Complete background of plaintiff and

18 U.S.C. 4245(c), 4247(h), 18 U.S.C. 3006A  
Strickland v Washington (and sub sec. 8)  
(1984)

TALKING POINTS - U.S. Supreme Court Decision:

United States v. Booker and United States v. Fanfan,  
Nos. 04-104 and 04-105, 2005 WL 50108 (January 12, 2005)

- On January 12, 2005, the Supreme Court issued its decision in the above-referenced cases.
- The Booker decision applied the rule previously announced in Blakely v. Washington, 542 U.S. \_\_\_\_ (June 24, 2004), to the U.S. Sentencing Guidelines (hereinafter, "the Guidelines"). In Booker, the Court ruled:
  - (1) that any fact that increases the maximum sentence under the sentencing guidelines must be proven to a judge or jury beyond a reasonable doubt, or admitted by the defendant; and
  - (2) that judges are not required to impose sentences within the sentencing guidelines range. Rather, judges are required to consult the guidelines, along with other factors, and then may impose a greater or lesser sentence as long as such sentence is "reasonable."
- The Court's decision expressly indicated that both rulings apply to all cases that are now pending direct appeal or otherwise "not yet final." Beyond that, however, the Court did not address how its decision might apply to other cases.
- Nothing will happen automatically as a result of the Booker/Fanfan decision. The decision will affect different inmates in different ways. The Bureau cannot change any inmate's sentence unless an amended criminal judgment, or other order, is issued by the appropriate court.
- There has been speculation in the media that the Court's decision will not apply retroactively, and therefore will not apply to cases that have been affirmed on direct appeal. We caution inmates that media reports about the Supreme Court's long and complicated ruling may not be accurate or complete. Inmates should consult with defense counsel as to whether the Court's decision has any effect on their cases, and to determine the most appropriate course of action for them.
- The Bureau is implementing plans to facilitate inmates' access to the decision as well as to amending increased inmate legal activities as a result of the Court's decision.

Page No. 2

plaintiffs Commitments and Etc. Thereto relating, prior, present and hereinafter, Plaintiff does not have a copy of his prison and court records and other records needed and necessary relating hereto for the purpose of relating herein the complete background aforesaid, Therefore moves the court to order the Respondents and Defendants to provide the court with said information in their responds, etc., hereto and otherwise as ordered by the court relating hereto. Further to include each and all claims grounds, allegations, motions, objections, exceptions, errors of trial etc. and all processes etc relating to each of same, prior, present and hereinafter, To exclude how same, can, dose, may, relate and apply and may be applied to each other and the relief demanded as to each and each of the others, and tort claims, complaints, civil actions, V.A. and S.S. etc. Benefits etc. relating thereto, prior, present, herein after and retroactive and otherwise. Which of the aforesaid can and can not be reasserted or reconsidered herein and relating hereto and the reasons why and all law etc that applies thereto and hereto prior, present and hereinafter. To enclude as to all relief prior and present asked for and demanded relating to the aforesaid and plaintiff hereto,

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA )  
Petitioner )  
v. )  
JOSEPH MARION HEAD )  
(Reg. No. 17549-056) )  
Respondent )

03-CV-10228  
C.P.A.T. ED

FILED UNDER SEAL

ORDER OF COMMITMENT PURSUANT TO 18 U.S.C. § 4245

Upon consideration of the United States' Petition for a hearing to Determine the Present Mental Condition of an Imprisoned Person pursuant to 18 U.S.C. § 4245, and Case Summary; and Nov. 17, 2003 following a hearing on October 17, 2003, and upon consideration of the evidence submitted herewith; the Court hereby finds that by a preponderance of the evidence, Respondent suffers from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

Therefore, it is hereby Ordered:

That the Respondent be committed, pursuant to 18 U.S.C. § 4245(d), to the custody of the Attorney General for treatment at FMC Devens or other suitable facility until it is determined pursuant to 18 U.S.C. § 4245(e) that he is no longer in need of such custody for the care or treatment, or until the expiration of his sentence of imprisonment, whichever comes first.

So ORDERED this 17<sup>th</sup> day of November, 2003.  
Everything said in each case summary and summaries must be proven legal and valid and true and correct of perjury charges issue.

H. J. Tamm  
United States District Judge

DOCKETED

Send Head a copy of all the records and evidence relating hereto and thereto his court cases and prison records and appoint Head an team of attorneys, expert phys., & investigators

James R. Fletcher, MD  
Chief Psychiatrist

(14)

What evidence herewith,  
which case summary  
Did not state whether or not appealed  
nor my reasons for same. Did not say  
I was informed of my right to appeal and  
never waived said right.

*Apprenda v New Jersey  
Strickland v Washington 1984*

TALKING POINTS - U.S. Supreme Court Decision:

United States v. Booker and United States v. Fanfan,  
Nos. 04-104 and 04-105, 2005 WL 50108 (January 12, 2005)

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  - (1) that any fact that increases the maximum sentence under the sentencing guidelines must be proven to a judge or jury beyond a reasonable doubt, or admitted by the defendant; and
  - (2) that judges are not required to impose sentences within the sentencing guidelines range. Rather, judges are required to consult the guidelines, along with other factors, and then may impose a greater or lesser sentence as long as such sentence is "reasonable."
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- There has been speculation in the media that the Court's decision will not apply retroactively, and therefore will not apply to cases that have been affirmed on direct appeal. We caution inmates that media reports about the Supreme Court's long and complicated ruling may not be accurate or complete. Inmates should consult with defense counsel as to whether the Court's decision has any effect on their cases, and to determine the most appropriate course of action for them.
- The Bureau is implementing plans to facilitate inmates' access to the decision as well as accommodating increased inmate legal activities as a result of the Court's decision.

.....  
Restricted Spending Limit: \$0.00

Restricted Expended Amount: \$0.00

Restricted Remaining Spending Limit: \$0.00

Restriction Start Date: N/A

Restriction End Date: N/A

**Item Restrictions**

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List Name	List Type	Start Date	End Date	Userid	Active
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**Comments**

**Comments:**

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**Inmate Inquiry**

Inmate Reg #:	17549056	Current Institution:	Devens FMC
Inmate Name:	HEAD, JOSEPH	Housing Unit:	N SOMP
Report Date:	02/08/2005	Living Quarters:	N02-219U
Report Time:	1:47:27 PM		

[General Information](#) | [Account Balances](#) | [Commissary History](#) | [Commissary Restrictions](#) | [Comments](#)

**General Information**

Administrative Hold Indicator: No

No Power of Attorney: No

Never Waive NSF Fee: No

Max Allowed Deduction %: 100

PIN: 5438

FRP Participation Status: ExemptTmp

Arrived From:

Transferred To:

Account Creation Date: 2/15/2002

Local Account Activation Date: 7/1/1991



Sort Codes:

Last Account Update: 2/7/2005 11:11:52 AM

Account Status: Active

ITS Balance: \$0.00

**FRP Plan Information**

FRP Plan Type      Expected Amount      Expected Rate

**Account Balances**

Account Balance:	\$19.78
Pre-Release Balance:	\$0.00
Debt Encumbrance:	\$0.00
SPO Encumbrance:	\$0.00
Other Encumbrances:	\$0.00

*This Money Will Be Spent For  
Postage Stamps, Ink Pen's Etc  
Needed Items.*

Outstanding Negotiable Instruments: \$0.00  
 Administrative Hold Balance: \$0.00  
 Available Balance: \$19.78  
 National 6 Months Deposits: \$242.80  
 National 6 Months Withdrawals: \$243.94  
 National 6 Months Avg Daily Balance: \$6.07  
 Local Max. Balance - Prev. 30 Days: \$19.78  
 Average Balance - Prev. 30 Days: \$0.82

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## Commissary History

### Purchases

Validation Period Purchases: \$0.00  
 YTD Purchases: \$193.57  
 Last Sales Date: 1/24/2005 5:51:13 PM

### SPO Information

SPO's this Month: 0  
 SPO \$ this Quarter: \$0.00

### Spending Limit Info

Spending Limit Override: No  
 Weekly Revalidation: No  
 Spending Limit: \$290.00  
 Expended Spending Limit: \$0.00  
 Remaining Spending Limit: \$290.00

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## Commissary Restrictions

### Spending Limit Restrictions

**Affidavit to Accompany  
Motion for Leave to Appeal in Forma Pauperis**

District Court No.

Appeal No. 05-1050

*Joseph Marion Head junior  
Petitioner - Appellant*

*v.  
U.S., David L. Winn, State of North Carolina -  
Respondents - Appellees*

**Affidavit in Support**

I swear or affirm under  
oof my poverty, I can't  
appeal or post a bond  
redress. I swear or af  
United States laws th  
and correct.(28 U.S.C

Signed: *Joseph*

My issues on ap

hen  
to a  
A),"  
to  
tach a  
ne, your

To be filed  
in District  
Court NOT Court  
of Appeals

1. For both you  
following sources during the past 12 months. Adjust any amount that was received weekly, biweekly,  
quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts  
before any deductions for taxes or otherwise.

Income source

Average monthly amount during  
the past 12 months

Amount expected next month

*I have been divorced over 30 years, & have no spouse*

Employment	You	Spouse	You	Spouse
Self-employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>

# United States Court of Appeals For the First Circuit

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No. 05-1050

JOSEPH MARION HEAD, JR.

Petitioner - Appellant

v.

UNITED STATES; DAVID L. WINN; STATE OF NORTH CAROLINA

Respondents - Appellees

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## ORDER OF COURT

Entered: February 2, 2005

Upon consideration of Petitioner's Motion For Appointment of Counsel, the motion is denied without prejudice to refiling once the petitioner has obtained in forma pauperis ("IFP") status. We note that the fee is still outstanding in this case.

On or before February 16, 2005, petitioner must file a motion to proceed IFP and a financial affidavit in the district court, and provide this court with proof of filing. If the district court denies petitioner's motion, petitioner must refile in this court his IFP motion and financial affidavit along with a renewed motion for appointment of counsel.

By the Court:

Richard Cushing Donovan, Clerk

LYNNE ALIX MORRISON

By \_\_\_\_\_

Appeals Attorney

[cc: Michael J. Sullivan, Esq., Roy Cooper, Esq. and Joseph Marion Head, Jr.]

**Inmate Inquiry****PRINT**

<b>Inmate Reg #:</b>	17549056	<b>Current Institution:</b>	Devens FMC
<b>Inmate Name:</b>	HEAD, JOSEPH	<b>Housing Unit:</b>	N SOMP
<b>Report Date:</b>	02/01/2005	<b>Living Quarters:</b>	N02-219U
<b>Report Time:</b>	12:44:01 PM		

<a href="#">General Information</a>		<a href="#">Account Balances</a>		<a href="#">Commissary History</a>		<a href="#">Commissary Restrictions</a>		<a href="#">Comments</a>
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**General Information**

Administrative Hold Indicator: No

No Power of Attorney: No

Never Waive NSF Fee: No

Max Allowed Deduction %: 100

PIN: 5438

FRP Participation Status: ExemptTmp

Arrived From:

Transferred To:

Account Creation Date: 2/15/2002

Local Account Activation Date: 7/1/1991

Sort Codes:

Last Account Update: 1/28/2005 2:08:49 AM

Account Status: Active

ITS Balance: \$0.00

**FRP Plan Information**

<b>FRP Plan Type</b>	<b>Expected Amount</b>	<b>Expected Rate</b>
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**Account Balances**

Account Balance:	\$0.02
Pre-Release Balance:	\$0.00
Debt Encumbrance:	\$0.00
SPO Encumbrance:	\$0.00
Other Encumbrances:	\$0.00
Outstanding Negotiable Instruments:	\$0.00
Administrative Hold Balance:	\$0.00
Available Balance:	\$0.02
National 6 Months Deposits:	\$243.88
National 6 Months Withdrawals:	\$243.94
National 6 Months Avg Daily Balance:	\$6.31
Local Max. Balance - Prev. 30 Days:	\$14.70
Average Balance - Prev. 30 Days:	\$2.72

15. If this petition concerns jail or prison conditions, prison discipline, a parole problem or other cause under 28 U.S.C. § 2241, answer the following:

a. Did you present the facts in relation to your present complaint in the internal prison grievance procedure?

Yes  No See Prison records of F.M.C. Devens

(1) If your answer to "a" above is yes, what was the result? See Prison Records of  
F.M.C. Devens

(2) If your answer to "a" above is no, explain:

b. Did you present your claim to the Bureau of Prisons or other federal agency for administrative action?

Yes  No See Prison Records

(1) If your answer is "yes," state the date such claim was submitted and what action, if any has been taken:

See Prison Records of F.M.C. Devens

(2) If your claim has not been acted on, attach copies of any correspondence you have received from the Bureau of Prisons or other federal agency concerning you.

c. **STATEMENT OF CLAIM:** State here as briefly as possible the facts of your case. DO NOT give any legal arguments or cite any cases or any statutes. Attach extra pages of the same size to this page if more room is necessary. DO NOT write on the reverse side of this page.

The commitment 18 U.S.C. 4245(f) of petitioner is and was illegal and violative of Federal law and the rights of petitioner. As facts hereto is the complete State and Federal, Prison and court records relating to petitioner past, present and hereinafter. The State and Federal convictions and sentences was not proven to be legal, valid, final. Petitioner was not allowed to appeal the commitment, petitioner was not allowed to have evidence and witness in his favor at the commitment hearing and was not allowed to testify at said hearing nor thereafter at a hearing 18 U.S.C. 4245(e), 4247(h)

**Deposits** PRINT

Inmate Reg #:	17549056	Current Institution:	Devens EMC
Inmate Name:	HEAD, JOSEPH	Housing Unit:	N SOMP
Report Date:	02/01/2005	Living Quarters:	X02-219U
Report Time:	12:44:14 PM		

<u>Date/Time</u>	<u>User Id</u>	<u>Transaction Type</u>	<u>Amount</u>	<u>Ref#</u>	<u>Payment#</u>
1/5/2005 9:31:46 AM	DEV2007	Payroll - IPP	\$14.04	5JV034	
12/17/2004 5:29:19 AM	AMSERVICE	Lockbox - CD	\$50.00	70122301	
12/6/2004 9:06:36 AM	DEV2007	Payroll - IPP	\$21.92	5JV021	
11/30/2004 5:31:03 AM	AMSERVICE	Lockbox - CD	\$50.00	70121005	
11/5/2004 9:39:14 AM	DEV2007	Payroll - IPP	\$19.76	5JV004	
10/20/2004 1:32:03 PM	DEV2007	Local Collections	\$20.00	1055	
10/5/2004 10:03:00 AM	DEV2007	Payroll - IPP	\$22.28	4JV157	
9/8/2004 7:59:53 AM	DEV2007	Payroll - IPP	\$25.04	4JV146	
8/5/2004 7:07:54 AM	DEV2004	Payroll - IPP	\$20.84	4JV132	
7/6/2004 8:56:57 AM	DEV2007	Payroll - IPP	\$23.00	4JV117	
6/7/2004 8:13:23 AM	DEV2007	Payroll - IPP	\$17.24	4JV102	
5/10/2004 2:27:56 PM	DEV2007	Local Collections	\$50.00	14466	

1

7. Indictment or case number, if known: N/A See Court Records
8. Offense or Offenses for which sentence was imposed: N/A See Court Records
9. Date upon which sentence was imposed and the term of the sentence: N/A See Court Records
10. When was a finding of guilt made? (Check one)
- After a plea of guilty
- After a plea of not guilty
- After a plea of Nolo Contendre
11. If you were found guilty after a plea of not guilty, was that finding made by:
- A jury
- A judge without a jury
12. Did you appeal the judgment of the conviction or the imposition of a sentence? Yes Yes  No
13. If you did appeal, give the following information for each appeal:
- a. Name of court: U.S. Ct. App. 4th Cir., Etc. See Court Records
  - b. Result: N/A See Court Records
  - c. Date of result: N/A See Court Records
  - d. Citation or number of opinion: N/A See Court Records
  - e. Grounds raised: (List each one)  
Each asserted and related in the State and Federal Prison and Court records relating to petitions, prior, present, hereinafter. As if each of same was related herein in proper order and form of each of same.

NOTE: If you appealed more than once, attach an additional sheet of paper the same size, give all the information requested above in question number 13, a through e. DO NOT WRITE ON BACK OF PAGE.

## UNITED STATES DISTRICT COURT

Boston - Ma. District of Massachusetts  
Joseph Marion Head Jr.

Plaintiff

APPLICATION TO PROCEED  
WITHOUT PREPAYMENT OF  
FEES AND AFFIDAVIT

U.S.A., N.C. and Attorney  
General of U.S. and David  
D. Winn - Warden T.M.C. Devens, CASE NUMBER:  
Defendant

I, Joseph Marion Head Jr. declare that I am the (check appropriate box)  
 petitioner/plaintiff/movant       other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated?  Yes       No      (If "No," go to Part 2)

If "Yes," state the place of your incarceration T.M.C. Devens

Are you employed at the institution? Yes Do you receive any payment from the yes

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed?  Yes       No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. T.M.C. Devens, Ed. Dept.  
about \$20.00 per month

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- |   |   |  |
|---|---|--|
| a. Business, profession or other self-employment  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| b. Rent payments, interest or dividends           | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation payments    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| e. Gifts or inheritances                          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| f. Any other sources                              | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

**FORM TO BE USED BY FEDERAL PRISONERS FOR FILING A PETITION FOR WRIT OF  
HABEAS CORPUS UNDER TITLE 28 U.S.C. § 2241**

IN THE UNITED STATES DISTRICT COURT

FOR THE Massachusetts, Boston Division

*Joseph Marion Head Jr. (17549-056)*

Petitioner

N-5 Cell 527 - F.M.C. Devens  
Post Office Box 879  
Ayer, Ma. 01432

(Full name under which you were convicted;  
Prison Number; Full Mailing Address).

vs. U.S.A., N.C. and  
U.S. Attorney General

CIVIL ACTION NO. \_\_\_\_\_

Respondent(s)

David L. Winn-Warden  
F.M.C. Devens P.O. Box 880  
Ayer - Ma. 01432

(Name of Warden or other authorized person  
having custody of Petitioner).

**PLEASE COMPLETE THE FOLLOWING. READ THE ENTIRE PETITION BEFORE FILLING IT  
OUT. ANSWER THOSE QUESTIONS WHICH PERTAIN TO YOUR TYPE OF CLAIM.**

1. This petition concerns: (check appropriate blank)

A conviction

A sentence (**CAUTION:** If you are attacking a sentence imposed under a Federal Judgment, you must file a direct motion under 28 U.S.C. § 2255 in the Federal Court which entered the Judgment).

Jail or prison conditions

Prison discipline issue

A parole problem

Other. State briefly:

*18 U.S.C. 4245(d) commitment*

*Nov. 17th. 2003 - U.S. Fed. Judge - Tauri, Boston*

*- Massachusetts 01210*

2. Place of detention: N-5 Cell 527 - F.M.C. Devens - Post Office  
Box 879 - Ayer - Massachusetts - 01432

United States District Court - Boston - Ma,  
Re: Joseph Marion Head Jr. (VS) See Petition  
**STATEMENT OF INDIGENCE** Herewith

**Request To Waver Or Defer Payments**

I do hereby swear, under penalty of perjury, that the following information is true and correct.

*Joseph Marion Head Jr.* do assert that my income prevents me from paying any fees while incarcerated due to the fact that I only earn \$20.00 About<sup>4</sup> per month at my current work assignment.

By my not being able to afford to pay any unreasonable payments, it adversely affects my ability to research information which could help with any appeal or liberty interest. Any other payments that may have been made in the past have been made with the assistance of family members who cannot afford to help with, nor is it their responsibility to do so.

In the event a full waiver of payments is not feasible, I would agree to, and fully intend to, pay the fees required. However, I would request a deferment of such payments until such time as I am on Supervised Release, at which time I will have an opportunity to obtain meaningful and gainful employment.

Respectfully submitted this 22 day of 2, 2005.

Petitioner has been in custody over 30 years and has not had a job that pays min. wages etc. in over 30 years.

See State and Federal Prison Trust Fund of Petitioner in the past 31 years

Name: Joseph Marion Head Jr.  
Number: 17549-056  
F.M.C. Devens, Unit: N-5-Cell 527  
P.O. Box 879  
Ayer, MA 01432

1. Please see copy of account for previous six (6) months.

FILED  
U.S. DISTRICT COURT  
MASSACHUSETTS OFFICE Page 2PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

105 FEB 29 P 1:53

United States District Court	District
Name (under which you were convicted): <i>Joseph Marion Head Junior</i>	Docket or Case No.: <i>STATE DISTRICT OF MASS.</i>
Place of Confinement: <i>7, M.C. Devens - P.O. Box 879 - Ayer - Ma. 01432</i>	Prisoner No.: <i>H2-007-410-4336</i>
Petitioner (include the name under which you were convicted) <i>Joseph Marion Head Jr.</i>	Respondent (authorized person having custody of petitioner) <i>North Carolina And David L. Winn - Warden</i>
The Attorney General of the State of <i>U.S.A., Ma., N.C.</i>	

*Gen. Reg. No. 17546-056*

## PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: \_\_\_\_\_

*Superior Court of Rutherford County  
Rutherfordton North Carolina 28139*

(b) Criminal docket or case number (if you know): *74CR2403*

2. (a) Date of the judgment of conviction (if you know): *Aug. 1974, May 1975, Aug. 1976*

(b) Date of sentencing: *August 1976*

3. Length of sentence: *35 years consecutive to 10 years*

4. In this case, were you convicted on more than one count or of more than one crime? Yes  No

5. Identify all crimes of which you were convicted and sentenced in this case: *Second*

*Degree Rape*

6. (a) What was your plea? (Check one) *Judge entered the plea*

(1) Not guilty  (3) Nolo contendere (no contest)   
(2) Guilty  (4) Insanity plea

- (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? *Judge*

*Entered the Plea of Not Guilty, Tried for  
Second Degree Rape*

**Petition for Relief From a Conviction or Sentence  
By a Person in State Custody**

(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

**Instructions**

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you. If your account exceeds \$       , you must pay the filing fee.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for \_\_\_\_\_  
Address  
City, State Zip Code

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury

Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes

No  Two prior trials

8. Did you appeal from the judgment of conviction?

Yes

No

9. If you did appeal, answer the following:

(a) Name of court: N.C. Court of Appeals

(b) Docket or case number (if you know): N/A See Ct. Rec.

(c) Result: N/A - See Ct. Rec.

(d) Date of result (if you know): N/A See Ct. Rec.

(e) Citation to the case (if you know): N/A See Ct. Rec.

(f) Grounds raised: N/A See Ct. Records

(g) Did you seek further review by a higher state court? Yes  No

If yes, answer the following:

(1) Name of court: N.C. Supreme Court

(2) Docket or case number (if you know): N/A See Ct. Rec.

(3) Result: N/A See Ct. Rec.

(4) Date of result (if you know): N/A See Ct. Rec.

(5) Citation to the case (if you know): N/A See Ct. Rec.

(6) Grounds raised: N/A See Ct. Rec.

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes  No

If yes, answer the following:

(1) Docket or case number (if you know): N/A See Ct. Rec.

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: U.S. D.Ct. Asheville North Carolina

(b) Give the date the other sentence was imposed: NIA See Ct. Rec. 1

(c) Give the length of the other sentence: N/A See Ct. Rec.

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes  No  N/A See Ct. Rec. D

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you

must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not apply.

bar your petition.\* NIA See. ct. Rec. S and  
all provisions of law etc. that  
applies thereto and hereto.

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result: N/A See Ct. Rec.

(8) Date of result (if you know): N/A See Ct. Rec.

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: N/A See Ct. Rec.

(2) Docket or case number (if you know): N/A See Ct. Rec.

(3) Date of filing (if you know): N/A See Ct. Rec.

(4) Nature of the proceeding: N/A See Ct. Rec.

(5) Grounds raised: N/A See Court Records

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result: N/A See Ct. Rec.

(8) Date of result (if you know): N/A See Ct. Rec.

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes  No

(2) Second petition: Yes  No

(3) Third petition: Yes  No

N/A See Ct. Rec.

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

N/A See Ct. Rec.

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If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. N/A

See Ct. Rec's

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes  No  N/A See Ct. Rec's
- If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. N/A See Ct. Rec's
16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:
- (a) At preliminary hearing: Robert W. Wolf and Robert L. Harris - Rutherfordton N.C.
- (b) At arraignment and plea: Wolf and Harris
- (c) At trial: First and Second trials, Wolf, Harris,  
NONE at last trial
- (d) At sentencing: NONE at last sentencing
- (e) On appeal: First, Second, Wolf, Harris, Last  
James Burwell Jr.
- (f) In any post-conviction proceeding: NONE
- (g) On appeal from any ruling against you in a post-conviction proceeding: NONE

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes  No  See Fed. Ct. Rec.

also I have to report as a sex offender for 10 years.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Each Ground Etc., Which Was Exhausted in State Courts

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

See each and all prior and present records, persons, places, things of and relating to this case and the Petitioner herein.

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- (b) If you did not exhaust your state remedies on Ground One, explain why:

Petitioner is a layman at law and was forced to proceed pro se the best he could

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- (c) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

- (2) If you did not raise this issue in your direct appeal, explain why:

Did Not Know  
could Appeal and did not know how,

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- (d) Post-Conviction Proceedings:

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

N/A See Ct. Rec. D

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: N/A See Ct Rec. D

Name and location of the court where the motion or petition was filed:

N/A See Ct. Rec. D

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Docket or case number (if you know): N/A See Ct. Rec.

Date of the court's decision: N/A See Ct. Rec.

Result (attach a copy of the court's opinion or order, if available): N/A See  
Ct. Rec.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A See Ct. Rec.s

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: N/A  
See Ct. Rec.s

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**GROUND THREE:** Illegally or Unconstitutionally  
Registers etc as a sex offender

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):  
See all State and Federal  
Prison and Court Records of  
and Relating to Petitions and  
His Court Cases and see all  
related and asserted in said  
records.

(b) If you did not exhaust your state remedies on Ground Three, explain why: N/A See  
Ct. Rec.s

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(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No  N/A See Ct. Rec.s

(2) If you did not raise this issue in your direct appeal, explain why: N/A See  
Ct. Rec..

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Docket or case number (if you know): N/A See Ct. Rec. 1

Date of the court's decision: N/A See Ct. Rec. 1

Result (attach a copy of the court's opinion or order, if available): N/A See Ct. Rec. 1

(3) Did you receive a hearing on your motion or petition?

Yes  No  N/A See Ct. Rec. 1

(4) Did you appeal from the denial of your motion or petition?

Yes  No  N/A See Ct. Rec. 1

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No  N/A See Ct. Rec. 1

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A See Ct. Rec.

Docket or case number (if you know): N/A See Ct. Rec.

Date of the court's decision: N/A See Ct. Rec.

Result (attach a copy of the court's opinion or order, if available): N/A See Ct. Rec. 1

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A See Ct. Rec. 1

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: N/A See Ct. Rec. 1

GROUND TWO: Each Ground Etc., Which Was Not Exhausted Which The Court Will Allow.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

N/A See all Prison and Court records relating to petitioner and his court cases.

United States District Court  
For the District of Massachusetts  
Boston Division  
1 Courthouse Way - Suite 2300  
Boston Massachusetts Division  
Boston Massachusetts 02210

FILED  
IN CLERKS OFFICE

2005 FEB 16 P 2:16

U.S. DISTRICT COURT  
DISTRICT OF MASS.

Joseph Marion Head junior  
Plaintiff - Petitioner  
vs  
United States of America  
And Employees Thereof  
Liable Herein  
Defendants.

Civil Commitment Case No.  
Nov. 17-03, 18 U.S.C. 4245(d)  
Federal Criminal Commitment  
Case Numbers U.S.D.C.W.D.N.C.Ashville  
State Case Numbers 74CR2403-  
74CR2403A, 73CR673  
, 71CR3030,

Petition For Writ of Habeas Corpus In Forma Pauperis  
To Issue For Lawful Court Release From Custody  
And Illegal And Or Unconstitutional Commitments  
(Civil 18 U.S.C. 4245) Criminal, As Federal Commitments  
And Civil Complaint For Redress Etc..

Jurisdiction

18, 28, 42 U.S.C., Fed. R. 57 Civ. Proc., As May Be Applied Hereto.  
The court has jurisdiction herein pursuant to  
the provisions of the United States of America Constitution  
As Applies Hereto And Pursuant To 28 U.S.C.  
2254, 2241, As Applies Hereto And As May Be Applied  
Hereto Legally And Officially By The Court.  
42 U.S.C. 1984, 1985, 1983, 1331, 1332, 1341, 1342, 1343, 1344, 1345, 1346.  
The Court Has Jurisdiction To Appoint Counsel Hereto  
United States Constitution Amendment 1, 4, 5, 6, 8, 14, 18  
U.S.C. 30006 A, Etc. Laws As Applies Hereto.

been. See also 18 U.S.C. 4247(g) and all other laws and rights to habeas corpus as would and does apply to plaintiff and his cases etc. relating thereto, prior, present, etc..

Plaintiff by reference thereto the prison and court records relating to him and his cases, and all related and asserted therein and relating thereto, Asserts and relates same herein and demands herein as setforth and stated in the aforesaid prison and court records.

See each claim, ground, motion, etc. as related, asserted, etc., in the prison and court records relating to plaintiff herein.

See each cop out and etc relating thereto, files etc by plaintiff herein.

Therefore Plaintiff Demands That,

- (1) The Court Allow him to proceed in forma pauperis herein and all matters relating thereto.
- (2) The Court Appoint Counsel American Civil Liberties Union and North Carolina Civil Liberties Union To Represent This Cause of Action As Presented Herein And Fully Represent Plaintiff Effectively And Competently and Professionally.
- (3) The Court Grant and Order All The Authorized Required And Entitled Relief And Release Relating Hereto and Thereto All Relief Prior Asked For And Demanded By Plaintiff and to Deny the rest with legal reasons etc. Stated for the denial of same, prior, present, etc..

6

dated 10-12-04 signed by Doctor Thompson  
Re: Inmate, Joseph Marion Head junior, 17549-056.

Objections And Exceptions Thereto  
As Hereby Entered And Related.

The Case Summary aforesaid is inaccurate  
and offensive and so prejudicially written  
it appears a prosecutor of some type or  
a Gov. Attorney wrote same and Doctor  
Thompson Signed it.

Plaintiff dose not believe Doctor Thompson  
is that skilled to write such a prejudicial  
Annual Case Summary in an effort to  
get Plaintiff committed further and not  
released for any reason. 18 U.S.C. 1201  
, Perjury and Conspiracy Laws, as relates  
and applies to the aforesaid case summary  
and relating thereto, prior and present, etc.

See all prison and court records  
of and Relating To The Aforesaid And  
Each And All of Plaintiffs State And Federal  
Court Cases And All Related, Asserted, Asked  
For And Demanded Relating Thereto And  
Hereto As A Complete And Accurate  
Background of Same As Known, And  
For Other Reasons Relating To The Aforesaid.

See 18 U.S.C. 4247(e)-(B)(2), the Director of F.M.C. Dexens  
Has not done what is required by this law as  
would apply to plaintiff prior and present.

See also 18 U.S.C. 4247- e and f, why was this  
not done timely nor otherwise as could and should have

## UNITED STATES DISTRICT COURT

Boston Ma, District of Massachusetts  
Joseph Marion Head Jr/nios

Plaintiff

U.S.A., U.S. Att. Gen.,  
David L. Winn - Warden  
J.M.C. Devens  
Defendant

APPLICATION TO PROCEED  
WITHOUT PREPAYMENT OF  
FEES AND AFFIDAVIT

CASE NUMBER:

Joseph Marion Head Jr/nios declare that I am the (check appropriate box)

petitioner/plaintiff/movant       other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated?  Yes       No      (If "No," go to Part 2)

If "Yes," state the place of your incarceration J.M.C. Devens

Are you employed at the institution? YES Do you receive any payment from the YES

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions. Order Unit Manager to send it to the court

2. Are you currently employed?  Yes       No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. J.M.C. Devens Esq. Dept.

With Bonous about \$ 20.00 per month.

b. If the answer is "No," state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

- |   |   |  |
|---|---|--|
| a. Business, profession or other self-employment  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| b. Rent payments, interest or dividends           | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance payments | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation payments    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| e. Gifts or inheritances                          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| f. Any other sources                              | <input type="checkbox"/> Yes            | <input type="checkbox"/> No            |

If the answer to any of the above is "Yes," describe, on the following page, each source of money and state the amount received and what you expect you will continue to receive.

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VISITING LIST FOR INMATE: HEAD, JOSEPH MARION

REGISTER NUMBER: 17549-056 UNIT: N SOMP

HEAD-DALE, NITA JOANN

INMATE VISITOR

SISTER

287 DALE SUMMERY RD., RUTHERFORDTON, NC  
US 28139

PHONE: 828-245-0027

PREPARED DATE: 01-06-2005

TOTAL VISITORS: 1

U.S. D.C. Boston Ma. Dir. Joseph Marion Head Jr.  
VS - U.S.A., U.S. Att. Gen., David L. Weiss - Warden

## STATEMENT OF INDIGENCY

### Request To Waver Or Defer Payments

I do hereby swear, under penalty of perjury, that the following information is true and correct.

I, Joseph Marion Head Jr., do assert that my income prevents me from paying any fees while incarcerated due to the fact that I only earn \$20,00 about<sup>1</sup> per month at my current work assignment.

By my not being able to afford to pay any unreasonable payments, it adversely affects my ability to research information which could help with any appeal or liberty interest. Any other payments that may have been made in the past have been made with the assistance of family members who cannot afford to help with, nor is it their responsibility to do so.

In the event a full waiver of payments is not feasible, I would agree to, and fully intend to, pay the fees required. However, I would request a deferment of such payments until such time as I am on Supervised Release, at which time I will have an opportunity to obtain meaningful and gainful employment.

Respectfully submitted this 25 day of Feb, 2005.

Name: Joseph Marion Head Jr.  
 Number: 19549-056  
 F.M.C. Devens, Unit: N-5 cell 527  
 P.O. Box 879  
 Ayer, MA 01432

1. Please see copy of account for previous six (6) months.

pleading concerning the denial of a petition for writ of certiorari by the Supreme Court of the United States, to be duplicative of the claims raised in Civil Action Nos. 04-40042-RGS and 04-40084-RGS. Because I find these documents to be duplicative and malicious under the authority of 28 U.S.C. § 1915A,<sup>2</sup> the court will direct the clerk to return these documents to Joseph Marion Head.

ORDER

Based upon the foregoing, it is hereby

ORDERED that in accordance with this Court's order dated September 17, 2004, the clerk shall return to Joseph Marion Head the documents submitted for filing since September 17, 2004; and it is further

ORDERED that petitioner Joseph Marion Head be precluded from filing any additional papers, claims, cases, files, complaints, or anything resembling those pleadings, or any other documents in the United States District Court for the District of Massachusetts, in any manner, way or form, without first obtaining the prior written approval of the Miscellaneous Business Docket Judge of the United States

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<sup>2</sup> 28 U.S.C. § 1915A provides in pertinent part:

- (a) Screening.--The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a government entity.
- (b) Grounds for Dismissal.--On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint--
  - (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
  - (2) seeks monetary relief from a defendant who is immune from such relief.

**FORM TO BE USED BY FEDERAL PRISONERS FOR FILING A PETITION FOR WRIT OF  
HABEAS CORPUS UNDER TITLE 28 U.S.C. § 2241**

IN THE UNITED STATES DISTRICT COURT  
FOR THE *Boston Massachusetts*

*Joseph Marion Head Jr., 17549-056*

Petitioner

*F.M.C. Devens - N-5 Cell 527  
Post Box 879 - Ayer -  
Massachusetts 01432*

(Full name under which you were convicted;  
Prison Number; Full Mailing Address).

VS. *U.S. A. and U.S. Att. Gen.* CIVIL ACTION NO. \_\_\_\_\_

*and David L. Winn - Warden,*

Respondent(s)

*F.M.C. Devens - P.O. Box  
880 Ayer  
Massachusetts 01432*

(Name of Warden or other authorized person  
having custody of Petitioner).

**PLEASE COMPLETE THE FOLLOWING. READ THE ENTIRE PETITION BEFORE FILLING IT OUT. ANSWER THOSE QUESTIONS WHICH PERTAIN TO YOUR TYPE OF CLAIM.**

1. This petition concerns: (check appropriate blank)

- A conviction  
 A sentence (**CAUTION:** If you are attacking a sentence imposed under a Federal Judgment, you must file a direct motion under 28 U.S.C. § 2255 in the Federal Court which entered the Judgment).

Jail or prison conditions

Prison discipline issue

A parole problem

Other. State briefly: *18 U.S.C. 4245(d) commitment, V.A. and  
Social Security Benefit rights until there is  
no remedy left to pursue for criminal relief  
and until final adjudication by Courts.*

2. Place of detention: *Federal Medical Center Devens - Post Office  
Box 879 Ayer - Massachusetts - 01432*

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOSEPH MARION HEAD, )  
Petitioner, )  
 )  
v. ) C.A. No. 04-40084-RGS  
 )  
DAVID L. WINN, )  
Respondent. )

MEMORANDUM AND ORDER

By Order dated September 17, 2004, the court instructed the Clerk to docket no further filings submitted by Joseph Marion Head without the prior approval of the court. See 9/17/04 Order, Docket No. 5.

For the reasons set forth below, the Clerk is directed to return to petitioner the documents that were received for filing after the issuance of the court's September 17<sup>th</sup> Order.

DISCUSSION

Petitioner Joseph Marion Head is a federal prisoner<sup>1</sup> now confined to FMC Devens in Ayer, Massachusetts. Despite the issuance of an injunction on September 17th, Mr. Head has continued to submit documents for filing. Upon review of these submissions, the court finds the documents, save one

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<sup>1</sup>Petitioner is now serving a 360-month sentence that was imposed pursuant to his convictions on nine counts of mailing threatening communications in violation of 18 U.S.C. § 876. See United States v. Head, No. 98-cr-102-ALL (W.D. N.C. Sept. 12, 2001).

(8)

14. Summarize briefly the facts supporting each ground. If necessary attach a single page behind this page.

**CAUTION:** If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

a. Ground one: The prosecution withheld and did not disclose to the defense and defendant favorable evidence, etc. to the defense, defendant.

Supporting Facts: (Tell your story BRIEFLY without citing cases or law. You are CAUTIONED that you must state facts not conclusions, in support of your grounds. E.g., who did exactly what to violate your rights at what time or place).

Prosecution did not state nor disclose, etc., reasons etc. that would justify the defendant for not knowing the law alleged violated, at the time of the offense. thereby unconstitutionally shifted the burden of proof on to the defense and defendant. Defendant testified that he knew he was violating a prison rule but did not know he was also violating a federal law when he wrote the letters.

b. Ground Two:

The prosecution failed to prove that the defendant knowingly violated the law alleged violated in the indictment.

Supporting Facts: The contents of the transcript of trial and records and briefs on appeal and all etc. filings relating to defendants cases.

Ground Three:

The prosecutor failed to prove defendant had a criminal intent to violate the Federal Law alleged violated.

Supporting Facts: The contents of the transcript of trial and the records on appeal and records of all other filings relating to defendants cases.



UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
JOHN JOSEPH MOAKLEY COURTHOUSE  
1 COURTHOUSE WAY, SUITE 2300  
BOSTON, MASSACHUSETTS 02210



December 14, 2004

Mr. Joseph M. Head, Jr.  
Reg. No. 17549-056  
FMC Devens  
P.O. Box 879  
Ayer, MA 01432

Dear Mr. Head:

The Clerk received your correspondence seeking information on the three notices of appeal you recently filed.

The Court's records indicate that by Order dated November 30, 2004, Judge Stearns ordered the clerk to enter the Notices of Appeal in the following actions: (1) Head v. United States, et al., C.A. No. 04-40089-RGS; (2) Head v. Unknown Parties, et al., C.A. No. 04-40090-RGS; and (3) Head v. America, et al., C.A. No. 04-40103-RGS.

Enclosed please find courtesy copies of the docket sheets for these three cases and note that the docket for each case indicates the case is on appeal. After the district court transmits the files to the Court of Appeals for the First Circuit, you will be notified of the appeals court case numbers.

Finally, I am enclosing a copy of the December 8<sup>th</sup> Memorandum and Order issued by Judge Stearns in Head v. Winn, C.A. No. 04-40084-RGS. This order requires you to obtain approval of the Miscellaneous Business Docket Judge before filing any documents with this Court. In the future, if you wish to file any documents in the District of Massachusetts, the Memorandum and Order requires you to file a written petition accompanied by a copy of the December 8<sup>th</sup> Memorandum and Order together with the papers sought to be filed and a certification under oath that there is a good faith basis for their filing.

I hope that this letter addresses your concerns,

Motion To File The Complaint Herewith  
In This Court, In Forma Pauperis  
See All Prison And Court Records  
Relating To Plaintiff. Further Order  
Same Provided To This Court And An  
Defendants, Provide Same, Objecting To His Prison Trust Fund For The  
Leave To Proceed In Forma Pauperis  
Barbara Morse  
Pro Se Office  
Order F. M. C. Devens Provided The  
Information To The Court As To  
The Indigence Of Plaintiff And  
His Prison Trust Fund For The  
Past 31 Years.

14. Summarize briefly the facts supporting each ground. If necessary attach a single page behind this page.

**CAUTION:** If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

a. Ground (4): The prosecution failed to prove the statement of the offense in the arrest warrant and indictment.

Supporting Facts: (Tell your story BRIEFLY without citing cases or law. You are CAUTIONED that you must state facts not conclusions, in support of your grounds. E.g., who did exactly what to violate your rights at what time or place).

The contents of the trial transcript of trial and all other records relating to defendant's cases.

b. Ground (5):  
The prosecution deliberately mislead the jury and judge to believe and find defendant guilty.

Supporting Facts: The Hon. Attorney stated to the judge and jury, the rule of law, Ignorance of the law is no excuse for not knowing the law. And did not tell them that the burden of proof law requires him to prove the defendant knowingly violated the law and has the criminal intent to violate said law.

Ground (6):  
Each and all prior claims, grounds, motions, errors of trial relating to defendant's cases, see all prison and it. Rec'd.

Supporting Facts: The contents of all records, etc., relating to each aforesaid asserted and all other records relating to the defendant's cases, etc. and V.A. and Social Security Rights, Etc. and entitlements to benefits and back pay etc.,

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA )  
Petitioner )  
v. )  
JOSEPH MARION HEAD )  
(Reg. No. 17549-056) )  
Respondent )

03-CV-10228

FILED UNDER SEAL

ORDER OF COMMITMENT PURSUANT TO 18 U.S.C. § 4245

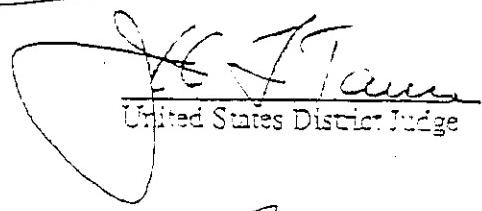
Upon consideration of the United States' Petition for a hearing to Determine the Present Mental Condition of an Imprisoned Person pursuant to 18 U.S.C. § 4245 and Case Summary, and Nov. 17, 2003 following a hearing on October 17, 2003 (and) upon consideration of the evidence submitted herewith,

the Court hereby finds that by a preponderance of the evidence, Respondent suffers from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

Therefore, it is hereby Ordered:

That the Respondent be committed, pursuant to 18 U.S.C. § 4245(d), to the custody of the Attorney General for treatment at FMC Devens or other suitable facility until it is determined pursuant to 18 U.S.C. § 4245(e) that he is no longer in need of such custody for the care or treatment, or until the expiration of his sentence of imprisonment, whichever comes first.

SOL DEFERRED - 11/17/03 day of November, 2003.

  
J. F. Pearce  
United States District Judge

DOCKETED

James R. [Signature]  
Chi. [Signature] [Signature]  
FBI [Signature]

14

OVER

15. If this petition concerns jail or prison conditions, prison discipline, a parole problem or other cause under 28 U.S.C. § 2241, answer the following:

a. Did you present the facts in relation to your present complaint in the internal prison grievance procedure?

Yes No N/A See Prison Records

(1) If your answer to "a" above is yes, what was the result? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) If your answer to "a" above is no, explain: N/A See Prison and Court Rec.'s  
\_\_\_\_\_

b. Did you present your claim to the Bureau of Prisons or other federal agency for administrative action?

Yes No N/A See Prison, Court, Etc., Rec.'s

(1) If your answer is "yes," state the date such claim was submitted and what action, if any has been taken:  
\_\_\_\_\_  
\_\_\_\_\_

(2) If your claim has not been acted on, attach copies of any correspondence you have received from the Bureau of Prisons or other federal agency concerning you. See Prison, Ct, and Other Rec.'s

c. **STATEMENT OF CLAIM:** State here as briefly as possible the facts of your case. DO NOT give any legal arguments or cite any cases or any statutes. Attach extra pages of the same size to this page if more room is necessary. DO NOT write on the reverse side of this page.

See each and all claim, etc., related and asserted prior, within the prison and court and V.A. and Social Security, Records relating to Petitioners and all presented to the Inter American Commission and Court on Human Rights.

Petitioners is and was denied V.A. and Social Security benefits etc., benefits because of being incarcerated prior to final adjudication by all courts and President of United States of America, which is unconstitutional as applied.  
\_\_\_\_\_  
\_\_\_\_\_

To United States District Court - Boston - Massachusetts  
and Each Federal Magistrate And Judge Therebofe

The Court Has Legal Jurisdiction Herein Pursuant To,  
18, 28 and 42 U.S.C. as may be legally applied hereto  
as well Rule 57 Fed. R. Civ. Proc.

United States of America - Petitioner (v) Joseph Marion Head 17549-056  
18 U.S.C. 1201 And Conspiracy Law As Applies Hereto

Violations of Rights To, Appeal, Due Process, Not To  
Be Deprived of Liberty But By Due Process of Law,  
Effective Assistance of Counsel, Equal Protection of Law;  
In That, Counsel and Court MUST Inform Client of Rights.

Failure by an attorney to perfect an appeal where  
the client has indicated a desire to appeal is cause.

Sincox v United States, 571 F.2d. 876, 879-80 (5th Cir. 1978)

Futher see, Glouster v United States, 3. D. Iowa 1970, 318  
F. Supp. 175, And See, United States v Smith, C.A. 6 (Mich.)  
(1967) 387 F.2d. 268.

Futher see, Strickland (v) Washington (1984).

#### F A C T 'S

That as facts hereto is the complete prison  
and court records relating to the above  
entitled cause and case Heard Nov. 17th, 2003  
in Federal Court In Boston, Massachusetts  
Before Tauro - U.S. D.C.T. Fed. judge.

#### F U T H E R F A C T 'S I S

Each and All State and Federal Prison and  
court record, person, place, thing, relating to  
Joseph Marion Head Juniors Reg. No. 17549-056  
(H 2-007-410-46-36), as if all said facts  
was stated herein, in proper order and form  
of each of same and all relating thereto, prior  
present and hereinafter as applies, etc.,  
relating hereto and or otherwise.

United States District Court  
for the District of Massachusetts  
Boston

U.S. DISTRICT COURT  
DISTRICT OF MASS.

2005 FEB 17 PM 3:38

United States of America Petitioner	Civil commitment Nov. 17th. 2003 18 U.S.C. 4245(d) No. _____ Boston-Massachusetts U.S. Fed. D. Ct.
vs Joseph Marion Head Reg. No. 17549-056 Respondent	

Judge, Tawu

I did not consent to the transfer to Devens.  
Was you with legal jurisdiction to commit  
me, 18 U.S.C. 4245(a) read said law.

Was I afforded my rights to object to  
the transfer?

Did I object to the transfer?

Did I have a petition for writ of  
Habeas Corpus pending in Fed. Court  
in Beckley W. Va. at the time of  
my transfer? With same pending,  
could I be legally transferred?

Was the Commitment Hearing, by law  
18 U.S.C. 4245(a), suppose to have been  
conducted in Beckley W. Va. instead of  
Boston, Massachusetts?

Am I illegally committed, Based on  
or relating to the aforesaid?

Who and what has to pay me, how  
much and why, when, where, etc?

Jan. 30th, 2005

Richard A. Stearns  
U.S. Fed. D.Ct. judge  
United States District Court  
Boston - Massachusetts - 01210

Questions To The Judge  
To Fully Answer  
Without Delay

Re: U.S.A. v Head and N.C. v Head, Defendant

(1) Was inmate Head's State and Federal convictions obtained in violation of the Laws and/or Constitution of the United States and/or the State of North Carolina and was his sentences legally imposed Based On The Reasons for the Verdicts of Guilty?

(2) Does a defendant's rights and/or privileges require the reasons for a verdict of guilty to be legally proven to be legal and valid and not violative of law, right nor privilege in order for the conviction to be legal and valid where a sentence can be legally imposed based on the conviction and reasons therefore as to the reasons for the guilty verdict? A defendant is not required to prove his innocence nor guilt. The burden of proof is on the government to prove the defendant legally guilty and must legally prove him guilty before a sentence can legally be imposed.

Signed: Joseph Marion Head Jr.  
Jan. 30th. 2005

United States District Court  
For the District of Ma.  
Boston 2005 FEB 21<sup>15</sup>

AM 172 P 251

United States of America Petitioner	U.S. DISTRICT COURT DISTRICT OF MASS.	Case Number As Related of Court Records, No.
VS Joseph Marion Head Reg. Number 17549-056 Respondent		COURT CLASS

Objections And Exceptions Do Herby Made  
To The Annual Case Summary For Court.

Now Comes, Joseph Marion Head junior, Reg. No. 17549-056, who himself pro se, respectfully presents to the Court Objections and Exceptions to the Annual Case Summary For Court and all related therin by, B. Thompson, M. D., Staff Psychiatrist, F. M. C. Devens, on 10/12/04 Movant was provided a copy on 11-18-04

Doctor Thompson record relating to movant is as appears of prison and court records, as to same see all prison and court records relating to movant hereof to include law suits, prior and present pending in courts, etc.

That Doctor Thompson did not state what records, etc she got her information from and did not provide movant a copy of same. Why?

Doctor Thompson committed perjury several times in the Annual Case Summary for Court as is evident and proof of same by the prison and court and other records etc relating to movant prior and present.

Doctor Thompson did not list and state all legal claims, grounds etc filed in prison and court, etc. records relating to movant and his staff and federal court cases and law suits and tort claims, prior and present. Nor all processes etc relating to each of the aforesaid. Why Didn't She do it?

The court is referred to all prison and court, etc. records as to each and all of the aforesaid, etc relating thereto, prior and present.

Order Doctor, Doctor Thompson provide the court and movant the aforesaid information

Order Doctor Thompson To Legally Prove all she said in her Summary aforesaid and Order her charged with perjury as to each and all matters therein which she cannot legally prove.

Order an inscourt evidentiary hearing in this matter and appoint movant competent and effective Counsel for same. Not Mr. William Brown - Attorney At Law.  
Signed, Joseph Marion Head Jr. 17549-056 (11-18-04)